



Air Pollution Control Board

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August 27, 2008

Mr. Jon Costantino
Climate Change Planning Section Manager
California Air Resources Board
1001 I Street
P.O. Box 2815
Sacramento, CA 95812

Dear Mr. Costantino:

Comments on Air Resources Board's Scoping Plan for AB32 Implementation

The San Diego County Air Pollution Control District has reviewed the Air Resources Board (ARB) Climate Change Draft Scoping Plan and submits these comments for consideration. We analyzed the Scoping Plan, in large part, from the point of view of potential new functions, requirements, rules or practices to which air districts and their permit holders will be subject once the Scoping Plan is implemented.

Air District Role

The Scoping Plan and AB 32 itself remain vague as to the authority and role of air districts in regulating Greenhouse Gas (GHG) emissions. AB 32 did not declare GHG an air pollutant, subject to the existing air pollution control framework in the Health and Safety Code (H&SC §39000, et seq.). Nor did it specify a role for air districts regarding GHG regulation, monitoring, or enforcement. The legislation specifically states that "[n]othing in this division shall limit or expand the existing authority of any [air] district" (H&SC §38594). Air districts therefore currently lack the authority to adopt GHG rules or enforce state GHG regulations.

The Scoping Plan likewise lacks detail regarding the role of air districts in implementing AB 32, although it notes air districts have the most relevant enforcement experience. On this point, previous input from and ongoing discussion with the California Air Pollution Control Officers Association (CAPCOA), in which the San Diego District participates, should be heeded. Further, we recommend that new GHG regulations affecting

stationary sources be modeled after the existing framework for criteria and toxic pollutants. That is, ARB should adopt standards for each industry and specify requirements for air districts in adopting implementing regulations to ensure applicable sources meet those standards.

The same approach applies to enforcing emissions offset project requirements for permitted stationary sources. ARB should establish standards and protocols for evaluating, monitoring, inventorying and enforcing conditions on emissions offset projects under the cap-and-trade system. Each air district could be tasked with implementing required inventory and enforcement activities within their jurisdiction. As noted on page 44, requiring offsets to be provided locally (rather than out-of-state) is an advantage for ensuring the offsets are easily tracked in a state database to avoid the duplicative use of offsets and so the requirements pertaining to the use of those offsets are legally enforceable in California. Additionally, the State may need to rely on the 35 air districts to oversee the enforcement of offset requirements and having California-based offsets would be necessary for that reason. However, since the Scoping Plan also calls for providing offset opportunities through the Western Climate Initiative, which is comprised of several western states, it could be expected that local air districts would monitor stationary source emissions offset projects even when the recipient of the emissions offsets is located in another air basin or state. In that case, the necessary legal authority of air districts to oversee these offsets would need to be established by state and/or federal law. ARB or its partner agencies should take steps now to ensure this authority is established prior to program launch.

Air districts have considerable expertise in stationary source technologies. However, to the extent air districts will be relied upon to verify, or regulate in some manner, emissions offset projects which are not conventional stationary sources, the Scoping Plan should account for training and certification needs of air district staff. Training and certification should be made convenient and affordable for all air districts. Long-term funding mechanisms for hiring and training additional air district staff should also be considered.

Cap-and-Trade System

The Scoping Plan commits the state to a multi-sector GHG reduction strategy based on a cap-and-trade scheme. Both the "cap" and the "trade" functions will require effective, credible oversight. Problems that have arisen with existing cap-and-trade systems in both the U.S. and Europe should be investigated and thoroughly considered in program design to ensure California's approach is workable over the long-term. To be successful, any cap-and-trade system must ensure that emission reductions are real, permanent, quantifiable, verifiable, enforceable, surplus and that no double counting of emission credits occurs. Again, the division of oversight responsibilities between agencies or even levels of government in a cap-and-trade system is unclear from the Scoping Plan draft. This is a very important issue which should be resolved in the forthcoming October draft being submitted to the ARB Board. The Scoping Plan includes "land use and local government" under the cap-and-trade system (Table 2). The implementation process for that aspect of cap-and-trade should also be clarified.

Transportation and Land Use

Although the transportation sector produces the largest portion of GHG emissions in California, the Scoping Plan's primary measures address this sector only through the use of alternative fuels and fuel efficiency. Reductions from these measures could be easily eclipsed by continued growth in vehicle miles traveled (VMT). For example, the State of Oregon's climate change plan, *A Framework for Addressing Rapid Climate Change: Final Report to the Governor* (January 2008) states, "reducing VMT is simply the single most effective way to reduce greenhouse gas emissions" (p. 46).

VMT growth will be determined by California's future development patterns. In a forthcoming Urban Land Institute (ULI) report, *Growing Cooler: The Evidence on Urban Development and Climate Change*, ULI states that significant amounts of new development will occur during the next 40 years. Thus there is an opportunity for ARB to pursue a variety of VMT-reduction strategies, beginning with near-term incentives and regulations regarding land use and transportation. For example, ARB should partner with local and regional governments to develop and implement flexible and cost effective transportation demand management (TDM) measures such as teleworking, alternative work schedules and other approaches for reducing VMT and associated emissions. These measures will be required to meet not only the 2020 target, but also the ambitious 2050 GHG reduction target of 80% below 1990 level.

Many local general plans are now addressing GHG reductions and should be supported by parallel state initiatives. These may include (1) sponsoring congestion pricing projects, (2) advancing timetables for public transit deployment, (3) rewarding transit-oriented development projects, (4) dedicating safety funding to address pedestrian and bicycle safety issues and (5) addressing the unintended fiscal obstacles to low-GHG development patterns created by the state-local tax system (see, for example the San Diego Association of Governments publication, *Fiscal Reform in California*).

Early Action Activities

AB 32 mandates that the state's eventual GHG Reduction Plan recognize local actions already contributing to GHG reductions. This aspect of the law is intended to ensure that local governments do not hesitate to implement reduction measures while waiting for the final GHG regulatory structure to emerge. The final Scoping Plan should clarify how early actions implemented by local governments and others will be recognized and accounted for.

Thank you for the opportunity to comment. We look forward to working closely with ARB staff on the future implementation of AB 32. Please contact me at 858-586-2700, or robert.kard@sdcounty.ca.gov, if you have any questions regarding these comments.

Mr. Jon Costantino

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August 27, 2008

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Kard", with a long, sweeping horizontal line extending to the right.

ROBERT KARD
Director-Air Pollution Control Officer

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